

**APPENDIX I: CASE DISCUSSION
HANDOUT**

CASE DISCUSSION 1

"Good Morning, Mr. Golly," said Ms. Molly (a newly assigned Government Contract Negotiator) when approaching the desk of her supervisor, Al Golly. You'll be glad to know that over the weekend I read a lot of those Government regulations you gave me. I must say I agree with you that one of the most difficult parts of my job is negotiating contract price. By the way, I have some questions in the area for you. When do you accept the sole source contractor's proposal without negotiating? The regulations aren't very specific on when or why do you negotiate?."

"Well, Ms. Molly," replied the section head, "I use my rule of thumb. When the proposal from the sole source contractor is equal to or below my own estimate of price, I accept it. Otherwise, I negotiate."

"That seems fair enough. Tell me one other thing Mr. Golly. When you decide to negotiate, how much reduction do you try to get? In other words, what do the regulations mean by a 'fair and reasonable price'?"

"Well! Good golly Ms. Molly, you've really asked me a tough one. But there again, I generally follow my own price estimate. I'll always try to negotiate the price to my estimate. If I can get the price down that far, I'm satisfied that it's fair and reasonable."

DISCUSSION: Do you agree with Mr. Golly? Is it ever appropriate to accept a sole source contractor's proposal without negotiation?

Is the contract price always fair and reasonable when the price is proposed at or below the government estimate? Why or why not?

CASE DISCUSSION 2

Kalan Mallace and Kim Crawfish, Contract Negotiators at the Rome Air Development Center, Air Force Systems Command, were discussing the problem of negotiating contracts at lunch one day.

"You know, Kalan," said Kim, "Our main weakness, I'm convinced, is that we don't spend enough time preparing for negotiations properly. If we did, I think we'd have lot better deals, on the whole."

"How do you mean?" asked Kalan. "I thought our cost and price analysis had been improving quite a bit over the last year or so."

"I'm not talking about cost analysis or other matters that involve definite figures -- what with audit reports and all, we're getting better there. I'm talking about planning our negotiation tactics and analyzing strengths and weaknesses before we begin bargaining. That's where I think we're simply not doing enough."

"Do you think we can really plan a negotiation before we actually sit down at the table with a contractor?"

"Sure we can," replied Kim. "And what's more, we've got to do it. To me, negotiation is just like selling. You have to know your product -- which requires fact-finding and analysis -- and then you've got to know how sell it. That involves the thorough planning. If you don't prepare properly, you won't sell it...it's as simple as that."

"I'm afraid I disagree with you Kim. I believe that effective negotiation is a product of may factors: logic, common sense, the ability to think fast and speak clearly -- none of which can be planned. Sure, you have to have the facts to know what you're selling -- but that's as far as you can go. If you dream up some detailed plans based on what you think the contractor will do or say the other side may do something else."

DISCUSSION: Do you agree with Ms. Mallace who believes flexibility is more important than planning or preparation? Or do you agree with Ms. Crawfish who feels that thorough preparation outweighs the ability to be flexible? Why or why not?

CASE DISCUSSION 3

Captain Kurt, a contract negotiator for the government, was charged with the responsibility of negotiating a contract with the Boykina Company for twenty three mini-space vessels to be used for cargo and rescue missions. The contractor was required to meet a specification that had been developed by the Military Command. No follow-on acquisitions were anticipated. Boykina proposed to meet the specification by modifying a space vessel the company had developed at its own expense. To meet specification, it would be necessary to strengthen the vessel in several places, add a cargo door and make other changes in its design. The basic configuration, however, was to remain the same.

During initial discussion with the contractor, it became clear to Kurt that Boykina anticipated a profitable commercial market for the vessel and was anxious to retain the right to use the tooling for eventual commercial production. For this reason, Kurt was unwilling to pay the full price for tools that the contractor would eventually use for production of commercial vessels. He suggested, and both parties agreed, to a plan whereby Boykina would pay approximately 80% of the total tooling cost and retain the right to use the tools on commercial vessels.

Because of the potential commercial applications, Boykina representatives agreed to a fixed-price type contract at a proposed price of approximately \$60 million.

When analyzing the Boykina cost breakdown, Kurt reviewed the company's proposal and noticed that the contractor made a \$2 million mistake in the government's favor. Kurt discovered that the contractor had made an error in estimating direct labor resulting in a contract proposal that was \$2 million less than what it should have been. Kurt explained the nature of the error to his boss and suggested that the error be pointed out to the contractor.

The boss objected to Kurt's suggestion. "This is a fixed-price deal," the boss said. "If we point out the error, it will cost the government \$2 million more for these vessels. With the company's expected commercial benefit and \$7 million in profit, the government would be foolish to tell the contractor that a mistake of this magnitude had been made."

DISCUSSION: Do you agree with Kurt or his boss? Should the government side disclose the \$2 million mistake to the contractor? Why or why not?

CASE DISCUSSION 4

Robert Byrd, the contract administrator for the Army Munitions Command, and Dennis Johnston, Contracts Manager for Celtic Electronics, were negotiating a change to a fixed-price contract for the production of 173 units of highly complex firing control equipment. The Army had recently issued a design change to the contract requiring the replacement of a power tube and associated circuitry. The cost of purchasing the power tube was a major portion of the direct cost. After several hours of discussion, Byrd and Johnston agreed on a cost of \$43,170 for accomplishing the change. The only topic left for negotiation was profit. Johnston had proposed a profit of \$5,180, or 12%, which was the same rate that the firm was receiving on the basic contract. At this point, the following discussion took place:

BYRD (first statement): Dennis, I'm afraid that 12% profit is too high for us.

JOHNSTON (first statement): Too high! What do you mean? That's what we're getting on the basic contract, isn't it?

BYRD (second statement): Sure, but that doesn't mean this change should get the same rate.

JOHNSTON (second statement): Why not? We've always received the same profit rate on changes that we had on the basic contract.

BYRD (third statement): Yes, but this change just isn't very complex. Most of the cost is simply purchase of materials.

JOHNSTON (third statement): We've been getting 12% on most of our fixed-price contracts -- it's standard for us - complexity has nothing to do with it!

BYRD (fourth statement): Maybe so ... But I consider each acquisition individually. They all stand alone, and that includes changes, too.

JOHNSTON (fourth statement): The next guy we deal with after you won't think so. If I agree to less than 12% on this one, pretty soon we'll start having trouble getting 12% on our basic contracts. We have to hold the line on this one. If we don't, we know we'll be in real trouble sooner or later.

BYRD (fifth statement): Dennis, look at it my way for a minute. I have to justify whatever profit we agree on to the Contracting Officer. If I can't, the Contracting Officer will just reject the deal and we'll have to start all over.

JOHNSTON (fifth statement): That's just it! The only justification needed is that we've received 12% on practically all our changes in the past.

DISCUSSION: What was wrong with Byrd's first statement that could have caused the negotiations to get off track? Specifically, what bargaining technique in Chapter 5 was not adhered to in the first statement. Explain.

Identify the likely application of five win/lose negotiation tactics. Describe where these tactics appeared in the different statements of each side.

CASE DISCUSSION 5

The Navy was negotiating with the Bernardo Company for a recent design change to 1,630 units of a new type of electronic control. The product was independently developed and patented by the Bernardo Company.

A Change Order was issued in April 199X before any of the units had been delivered under the contract. The modification required revision of certain circuitry within the units and specified that Bernardo submit a cost proposal for the change. Bernardo proposed a price of \$420 per unit, for a total price of \$684,600. Ms. Victoria Frathouse, the cognizant ACO, estimated that a fair unit price for the change should be between \$240 and \$260. On three different occasions, Ms. Frathouse tried to negotiate a downward adjustment in the company's quoted price, but, was unsuccessful. After Ms. Frathouse was first introduced to Mr. William Bradford the Bernardo Manager of Contracts, the negotiations began on May 26, 199X with the following exchanges.

Mr. William Bradford (first statement): "Vicki, you think our price is high -- we don't. We developed the item and we are in a position to evaluate the change more accurately. You underestimate how much work is really involved."

Ms. Victoria Frathouse (first statement): "Mr. Bradford, your costs are just 'guess-timates.' We feel they're too high. I can't throw away taxpayer money like that. You're entitled to a fair return - not to unearned profits."

Mr. William Bradford (second statement): "We put a lot of money into developing this; (PAUSE) I tell you what -- we're not getting anywhere like this; my final offer is take it or leave it. We may still lose money, but I'm willing to take a chance for the security of our nation. I believe in the Constitution and what it stands for! ... My father fought in the "Big One " and I'm ready to make a deal!"

Ms. Victoria Frathouse (second statement): "(Harsh voice) Take a chance! \$260 is fair for the change and you know it! \$390 is ridiculous! I'll tell you one thing -- just remember that all the administrative work on this contract has to go through us. We inspect and accept all the items that you produce under this contract; we see that you get your progress payments on time -- we work together in many ways. Our relationship has been good so far and I would hate to see that endangered just because you won't give us a reasonable price on this change."

DISCUSSION: What is wrong with the bargaining technique of Ms. Frathouse and Mr. Bradford? Specifically, which bargaining rule was repeatedly violated in every statement? (Review each statement separately to illustrate the violations.)